EXHIBIT 6
DATE 1-9-09
HB Informational meeting

Overview of Montana Corporation License Tax

House Taxation Committee
January 7, 2009

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Total Corporate Income – Federal Income Tax

	Gross Receipts or Sales
Less:	**Cost of Goods Sold**
Equals:	**Gross Profit**
Plus:	**Dividends, Interest**
	Gross Rent
	Gross Royalties
	Capital Gains
	Supplemental Gains
	Other Income
Equals:	**Total Income**

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Federal Taxable Income

Total Income

Less:
- **Compensation of Officers**
- **Wages and Salaries**
- **Pension, profit sharing plans, etc.**
- **Employee benefit program costs**
- **Repairs, maintenance**
- **Bad debts**
- **Rents and interest paid**
- **Taxes and licenses**
- **Charitable contributions**
- **Depreciation, depletion**
- **Advertising and other deductions**

Equals: **Federal Taxable Income**

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Montana Corporation License Tax – Starting Point

The starting point for Montana's Corporation License Tax is:

Federal Taxable Income (FTI)

Federal law controls all of the income and deduction items discussed previously

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Montana Additions to FTI

- Montana corporation license tax included in FTI
- Other state, local, foreign and franchise taxes (based on income)
- Federal tax exempt (municipal) interest
- Contributions used to compute Montana's charitable endowment credit
- Other additions (e.g. extraterritorial income exclusion, capital loss carryover)

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MT Subtractions from FTI

- IRC "Section 243" dividends received deduction
- Nonbusiness income
- Montana recycling deduction
- Other reductions (e.g. current year capital losses must be deducted in year incurred)

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Adjusted Federal Taxable Income

	Federal Taxable Income
Plus:	Montana Additions
Less:	Montana Subtractions
Equals:	Adjusted Federal Taxable Income

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Apportionment – General Approach

- Corporations operating in more than one state must have their income apportioned to each of the states in which they operate.

- Montana apportions income of multi-state corporations using the traditional Uniform Division of Income for Tax Purposes Act (UDITPA) equally-weighted, 3-factor apportionment formula.

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Apportionment – General Approach

The UDITPA three factors used to apportion income under this approach are:

- **PROPERTY (Original Cost)**
- **PAYROLL**
- **SALES**

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Apportionment Factor - Example

Example Calculation of Apportionment Factor for Multistate Corporporation

Factor	Total	Montana	MT Factor
Property Factor	$2,500,000,000	$223,000,000	0.0892
Payroll Factor	$327,000,000	$16,000,000	0.0489
Sales Factor	$1,298,000,000	$98,000,000	0.0755
	Sum of Montana Factors:		0.2136
Apportionment Factor (sum of MT factors divided by 3):			0.0712

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Montana Taxable Income (before Net Operating Losses)

	Adjusted Fed Taxable Income
Times:	Apportionment Factor
Equals:	Apportioned MT Income
Plus:	Income Allocated Directly to Montana
Equals:	Montana Taxable Income (before net operating losses)

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Net Operating Losses

- In simple terms, a net operating loss (NOL) is the excess of deductions over gross income in any tax year
- Corporations may reduce taxable income in previous or subsequent tax years by carrying forward or carrying backwards net operating losses
- Net operating losses may be carried *back* for 3 tax periods
- Net operating losses may be carried *forward* for 7 tax periods

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Montana Taxable Income (After NOLs) and Tax Liability (Before and After Credits)

	Montana Taxable Income (Before NOLs)
Less:	Net Operating Loss Carryover
Equals:	Montana Taxable Income (After NOLs)
Times:	6.75% (7% if "Water's Edge" Corporation)
Equals:	Tax Liability Before Credits
Less:	Tax Credits
Equals:	Tax Liability After Credits

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Tax (Refund) Due at Time of Filing

Corporations may owe tax or be due a refund at the time of filing:

	Tax Liability After Credits
Less:	Prior Year Overpayments
	Tentative Payments
	Quarterly Estimated Tax Payments
Equals:	Net Tax (Refund) due

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"Unitary" v. "Separate" Reporting

- States may require corporations to file on either a unitary (combined) or separate reporting basis
- Montana is a worldwide, combined unitary state and unitary corporations must apportion income as provided for in 15-31-305, MCA

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Unitary (Combined) Reporting

Business is unitary when:

1) Operation within the state is dependent upon or contributory to operations outside the state, or

2) Units of the business within and without the state are closely allied or incapable of separate maintenance

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Unitary (Combined) Reporting

Unitary requirements ("three-unities" test):

1) **Unity of ownership (affiliate owned greater than 50%, control established)**

2) **Unity of operation (economies of scale - centralized staff functions – purchasing, advertising, human resources, etc.); and**

3) **Unity of use (centralized executive force making decisions regarding strategy and operations, intercompany transfer of products, know-how and expertise)**

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Separate Company Reporting

- **Each member of a commonly controlled group computes income and files a return as if it were a separate economic entity**
- **Provides opportunities to create legal structure and intercompany transactions to shift income from affiliates in high-tax states to affiliates in low-tax states**

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"Water's Edge" Corporations

- Available only to multinational corporations
- Allows exclusion of corporations operating almost exclusively outside US (80% rule)
- Three-year renewable election
- Tax Rate of 7% (rather than 6.75%)

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Audit Program (RARs)

- 15 Corporation Tax Auditors
- Desk Audits (RARs, NOL carry forwards, state adjustments, etc.)
- Field Audits (Review filing methods, large nonbusiness deductions, apportionment factors, etc.)

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